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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company to Establish a Demonstration Climate Protection Program and Tariff Option.	A.06-01-012

REPLY BRIEF
OF THE DIVISION OF RATEPAYER ADVOCATES
ON PACIFIC GAS AND ELECTRIC COMPANY'S
APPLICATION TO ESTABLISH A CLIMATE PROTECTION TARIFF

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SUMMARY OF RECOMMENDATIONS

The Commission should not approve the CPT unless:

(1) shareholders assume some of the costs and risks;

(2) the program is tax deductible for residential ratepayers;

(3) overhead costs are reduced by coordinating with existing advertising budgets; and

(4) the program is truly voluntary.

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1. Introduction

Six parties, including the Division of Ratepayer Advocates (DRA) filed concurrent opening briefs July 14, 2006 on Pacific Gas and Electric Company's (PG&E's) application to establish a climate protection tariff (CPT).[1] With the exception of the Agricultural Consumers Energy Alliance (ACEA) and PG&E, every party pointed out unanswered questions, areas of concern and potential problems with the CPT in its current form. PG&E, on the other hand, adamantly insists that the Commission adopt the program as proposed, insisting on full control of every detail while refusing to commit to any shareholder participation.

The Commission should not force ratepayers to bear costs of a "voluntary" demonstration program of unproven value, while at the same time allowing PG&E shareholders to receive for free the goodwill and ratemaking benefits that would accrue from the CPT as it is now configured. In short, the Commission should not allow PG&E to "eat its cake and have it too."

[1] The parties that filed opening briefs were Aglet Consumer Alliance, ACEA, the City and County of San Francisco, DRA, PG&E and TURN. Administrative Law Judge Thomas directed parties to use a common briefing outline. DRA's reply brief follows that outline, but omits sections where it has no comment, while retaining the agreed upon numbers.

TURN's opening brief proposed an alternate approach for procuring greenhouse gas (GHG) offsets that would cure some of the problems with PG&E's CPT by abandoning the pretense that the program is voluntary, providing PG&E with the opportunity to gain experience in acquiring and retiring GHG reductions in California, and eliminating PG&E's excessive marketing costs. Nevertheless, DRA does not recommend adoption of TURN's proposal because it was not the subject of testimony or hearings and has not been adequately vetted.

2. Procedural History: TURN's Primary Proposal

TURN's proposal that PG&E immediately begin procuring 2 million tons of GHG reductions on behalf of all ratepayers is intriguing.[2] Rather than spend time developing a costly and time consuming marketing strategy, PG&E would focus on procuring GHG offsets at the lowest possible cost in what PG&E admits is a "relatively nascent market."[3] TURN's proposal would address concerns about excessive marketing costs and mislabeling the program as voluntary, and would allow PG&E to gain experience in "learning the realities of procuring GHG reductions"[4] as well as developing the statewide GHG verification infrastructure.

TURN's calculations, which compare the cost of procuring reductions under its proposal with two different PG&E scenarios, show that it would be more cost effective and less risky to captive ratepayers to participate as proposed by TURN, rather than in the purportedly "voluntary" CPT in which ratepayers assume all marketing costs, as well as the risk that unforeseen circumstances will require captive ratepayers to serve as a "backstop."[5]

Nevertheless, DRA cannot support TURN's proposal because details of how it would work were not scrutinized in the course of this proceeding and there are still too many unanswered questions including: whether a GHG emission reduction program

[2] TURN Opening Brief, p. 5.

[3] PG&E Opening Brief, p. 47.

[4] TURN Opening Brief, p. 11.

[5] TURN Opening Brief, p. 14.

should be mandatory, whether this is the best program to reduce GHG emissions on a mandatory basis, what the appropriate level of funding should be, and whether the Commission should address utility-wide GHG reduction programs. TURN's recommended approach was not addressed in testimony or hearings and is simply not the subject of this proceeding.

4. CPT Program Design

4.2. Program Budget

PG&E claims that its requested budget of $16.4 million for administrative and marketing costs is "just right."[6] DRA is not alone with its concern that PG&E's proposed administrative and marketing budget[7] is excessive in comparison to the anticipated premiums[8] that it will collect from participants and in comparison to utility green pricing programs.[9]

PG&E hopes to achieve its stretch goal of enrolling 4.4 percent of its customers in the CPT, which is expected to yield $20 million in premiums. Under that scenario, administrative and marketing costs would be 45 percent of the total expected revenue. If instead only 3.2 percent of PG&E's customers enroll, then administrative and market costs would represent 53 percent of total CPT revenue.[10] Stated differently, if PG&E's misses its "stretch goal" by a little over a percent, spending on administrative and marketing costs will exceed the amount it collects in premiums by $2 million.

The $16.4 million budget is also high when compared to utility green pricing programs studied in the 2004 National Renewable Energy Laboratory (NREL) entitled

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[6] PG&E Opening Brief, p. 10.

[7] CCSF criticized PG&E's proposed marketing budget as too high, but does not specifically criticize administrative costs. Ex. 500, Testimony of Jared Blumenfeld and Melissa Capria on Behalf of the City and County of San Francisco, p. 5:11-24.

[8] TURN Opening Brief, pp. 7-8; Aglet Opening Brief, p.2; 4 RT 667:9-11, Aglet/Weil.

[9] TURN Opening Brief, p. 9.

[10] Ex. 100, DRA Testimony, p. 5, fn. 6. ($14.5 million in premiums expected at the 3.2 percent participation level.)

"Trends in Utility Pricing."[11] The average amount spent on administrative and marketing is 20 percent, while "top performers" spend 28 percent of the total collected revenue on administrative and marketing expenses.[12]

4.2.2 Marketing Budget

PG&E claims that its proposed marketing budget of $12 million for three years is "carefully and appropropriately sized" despite the absence of a marketing plan or any details about how the money will be spent.[13] PG&E justified its budget as the product of the "acquisition cost methodology," which multiplies the average cost to acquire a customer times the desired participation rate. Use of the acquisition cost methodology may provide some useful information for planning a marketing budget, but PG&E's exclusive reliance on it is misguided. Use of the acquisition cost methodology is not an appropriate substitute for developing a budget based on activities, staffing levels and projects and milestones to be achieved within a specific time period. Spending too little on marketing may result in lower participation, but merely spending money does not guarantee a successful program. DRA agrees with the CCSF, that "[a]t the very least, the Commission should require greater justification and detail than it has seen thus far from any budget proposals put forward by PG&E."[14]

PG&E's proposed marketing budget also fails to recognize cost reductions that should result from coordinating with existing ongoing marketing efforts, including its "Integrated Demand Side Management Program."[15]

While PG&E did not compare the size of its proposed marketing budget to other entities providing GHG offsets at the retail level,[16] comparison to utility green pricing programs reported in the 2004 NREL study shows that PG&E's proposed customer

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[11] Ex. 5. PG&E and other parties used the NREL study for comparison purposes because there is less reported data on programs that reduce GHG through emission offsets.

[12] Ex.5, NREL Report, p.17.

[13] Ex. 502, PG&E response to CCSF DR2, question 2.

[14] CCSF Opening Brief, pp. 10-11.

[15] Ex. 1, PG&E Testimony, Counihan, p. 3-10; Ex. 100, DRA Testimony, p. 15:12-13, 24-24.

[16] 3 RT 363:12-14, PG&E/Counihan.

acquisition cost of $60 per customer for the first year and $54 per customer in the second year exceeds the average amount spend by top performing programs. Only by the third year does its projected cost of $48 per customer acquisition reach the average acquisition cost of top performing programs. Moreover, exclusive use of the acquisition cost methodology fails to account for economies of scale that should reasonably be expected in a utility as large as PG&E.

PG&E criticized DRA's reliance on the total marketing budgets of utility green pricing programs reported in the 2004 National Renewable Energy Laboratory study[17] as flawed because (1) total market budget information is difficult to scale up to PG&E, a utility with over 5 million customers and because (2) it fails to differentiate between start programs and more mature programs.[18] PG&E's criticism about "scaling up" total budget information is mistaken: if anything, DRA's use of the upper end of the reported range gave PG&E the benefit of higher budget numbers. PG&E's criticism that the NREL data includes a mix of new and old programs rests on the assumption that program costs decrease over time. PG&E's contention theoretically has merit, but as DRA witness Ms. Greig testified, in later years some program costs may decrease, only to be replaced by others.[19] DRA agrees with TURN's observation that in the absence of binding budgets or participation goals in the years after the pilot ends, the Commission should view with extreme skepticism PG&E's claim that costs will decline in the years after those covered by the application.[20]

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[17] Ex. 5.

[18] PG&E Opening Brief, p. 15.

[19] 3 RT 366:19-23. Ms. Greig testified "early costs…would be lower as the program went out. They potentially could be offset by comparable or higher marketing costs other than those involved with setting up the program."

[20] TURN Opening Brief, p. 15.

4.5. Process for Procuring GHG Reductions

TURN's concerns about potential fraud and double counting in the absence of yet to be defined protocols for verifying, conveying and retiring GHG reductions are well founded. If the Commission approves the CPT, it should closely monitor PG&E's procedures for verifying, conveying and retiring GHG reductions.[21]

4.6. Composition and Function of External Advisory Group

CCSF contends that the CPUC should appoint members of PG&E's proposed external advisory group (EAG) and vest decision-making authority to that group.[22] DRA shares CCSF's concern that an advisory group whose members are appointed by PG&E and that has no decision making authority could be ineffectual and a waste of time. Nevertheless, DRA agrees that it would be improper for the CPUC to delegate decision making authority to an outside group.[23] An EAG provides a stakeholder forum that could offer PG&E valuable information if utilized properly, but ultimately, it would be up to PG&E whether the EAG was anything more than "window dressing."

4.7. Estimated Costs of GHG Reductions and Cost-Effectiveness

PG&E derived its estimate of $9.71 per ton for carbon reductions "from the E3 Report on which the CPUC relied for the GHG adder in the Avoided Cost proceeding."[24] The E3 report provides a starting point for calculating the cost of offsets, but as with any forecast, the estimate may be too high or low. DRA and CCSF offered information from existing offset programs showing that GHG reductions may cost less than $9.71 per ton. CCSF noted that the Oregon Climate Trust's 2005 Request for Proposals sought offsets for $5 per ton,[25] while DRA listed information from a number of programs that provide

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[21] TURN Opening Brief. pp. 10-11.

[22] CCSF Opening Brief, pp. 9-10.

[23] D.05-01-055, *slip opinion*, p. 97.

[24] PG&E Opening Brief, p. 34.

[25] February 27, 2006 CCSF Comments on the Application of PG&E to establish a Demonstration Climate Protection Program and Tariff Option, p. 3.

offsets for well under $9.71 per ton.[26] PG&E responded by denigrating the value of information except when it supported a price as high as its $9.71estimate.[27]

Even assuming that PG&E's forecast represents the cost per ton of emissions it will procure during the anticipated three-year program cycle a reasonable, it would be inaccurate because the estimated cost of $9.71 includes none of the administrative and marketing costs that are necessary for the program. A more accurate cost would be $17.67.[28]

DRA does not support TURN's alternate proposal for reducing GHG reductions through a mandatory program funded by all ratepayers,[29] but agrees that including administrative and marketing costs with the cost of the offsets is necessary to obtain a true picture of CPT costs, "creates a huge drag on program cost effectiveness."[30]

4.11. Tax Deductibility of Rate Premiums

DRA, Aglet and TURN all recommended that PG&E make the CPT premiums tax deductible for residential ratepayers in order to reduce costs and therefore increase customer participation, especially in light of the fact that customers most likely to sign up for the program were also likely to itemize.[31] PG&E responded that changing the program to make it tax deductible for residential ratepayers[32] would not reduce program

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[26] Ex. 100, DRA Testimony, pp. 9-10. According to the Ecobusiness survey cited by DRA , Carbonfund was "the low cost leader providing carbon offsets" at $5.50 per ton, but other providers also offered carbon offsets at prices well below $9.71 per ton, even though their costs almost certainly included administrative and marketing expenses.

[27] On the one hand, PG&E spent three pages criticizing Carbonfund, a small nonprofit group established in 2003 to educate consumers about the impact of their carbon footprint and offer carbon offsets, after DRA cited it as an example of a program that offered lower cost offsets. Ex. 3, PG&E Rebuttal, San Martin, pp. 3-17—3-19. On the other hand, PG&E's rebuttal summarized phone calls and conversations to justify its higher price, including one with unnamed staff at the Oregon Climate Trust who stated that emission reductions from truck stop electrification projects ranged from $6 to $12 per ton. Ex. 3, PG&E Rebuttal, p. 3-19:22-25.

[28] Ex. 100, DRA Testimony, p. 9; 3 RT 379:19, DRA/Greig.

[29] Section 2, *supra*.

[30] TURN Opening Brief, p. 14.

[31] TURN Opening Brief, p. 17.

[32] PG&E contends that the CPT is "already tax deductible for business customers as an ordinary business expense, a fact that nobody disputed." Whether or not payments made by a business entity for what is

marketing and administrative costs of the CPT, and in fact, the costs of establishing a 501(c)(3) organization would need to be added to program costs and could "significantly delay" the start of the program.[33] PG&E presented vague assertions in its rebuttal testimony[34] and opening brief, but not one shred of evidence detailing the time or cost required to setup a 501(c)(3) or obtain a letter ruling from the Internal Revenue Service regarding tax deductibility for residential customers. Instead, PG&E merely "talked with internal people and felt that it wasn't the appropriate way to structure the program so there was no point in seeking the ruling."[35]

PG&E cited two small green utility pricing programs that offer tax deductibility yet have low participation rates in support of its contention that offering tax deductibility is unlikely to "increase customer enthusiasm."[36] It is possible that participation rates would be even lower if not for tax deductibility. Further, the more appropriate comparison would be with GHG emissions offset programs, not a green pricing program, and the record contained evidence of programs that offer tax deductibility for residential ratepayers.[37]

It is not clear whether PG&E seriously investigated the issue of tax deductibility for residential customers as part of its due diligence in proposing the CPT. PG&E admits that in surveying potential customers in the Hiner Study[38] "[t]here were no statements that told survey participants that the premiums were tax deductible and there were no questions that asked them whether they would be more likely to sign up if the premiums

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essentially a charitable contribution are tax deductible as a business expense is beyond the scope of DRA's testimony.

[33] PG&E Opening Brief, pp. 41, 42.

[34] Ex. 3, PG&E Rebuttal, p. 1-17-18 (PG&E determined it would be "time consuming and expensive" to structure the CPT to allow tax deductibility for residential tax payers, but made no effort to quantify the time or cost involved.)

[35] 2 RT 335:8-11, PG&E/Counihan.

[36] PG&E Opening Brief, p. 41.

[37] See Exs.100 (Attachment A, which lists Terrapass and Native Energy) and Exs. 103, 104, 105, 206, showing that the Carbonfund and Oregon Climate Trust allow customers to make tax deductible contributions for GHG reductions.

[38] Ex.3, Appendix A-1, Hiner & Partners 2005 Survey of PG&E's CPT.

were tax deductible."[39] PG&E argues that the Commission should nonetheless approve the CPT and put off till "another day" any "potential 'investigation'" on the issue of tax deductibility.[40] PG&E suggests it could then measure the value of tax deductibility by "poll[ing] actual customers instead of potential customers."[41] Once again, PG&E misses the point. Polling customers who <u>have</u> signed up for the CPT when it is not tax deductible is unlikely to yield information about how many people <u>would have</u> signed up if the CPT had been structured so that it was tax deductible.

Perhaps PG&E's refusal to consider partnering with an existing carbon offset program that allows tax deductibility for residential participants is motivated by a desire to ensure that PG&E shareholders benefit from the publicity and good will that has already resulted from the CPT.[42] Perhaps PG&E is more concerned with meeting the needs of business customers. Whatever the reason, DRA agrees that by failing to offer tax deductibility for residential customers PG&E has "left money on the table."[43] The Commission should not approve the CPT unless PG&E makes it tax deductible for residential participants.

4.12. Customer Outreach Activities

DRA agrees with CCSF and TURN that if the Commission approves the CPT without shareholder participation or a performance guarantee, PG&E's outreach materials should be closely scrutinized by the Commission to ensure that the information is informative, accurate and not misleading.[44] It is not enough, as PG&E suggests, to merely place a CPUC staff person on the EAG.[45] The role of that group is purely

[39] PG&E Opening Brief, p. 41.

[40] PG&E Opening Brief, pp. 42-43.

[41] PG&E Opening Brief, p. 43.

[42] TURN Opening Brief, p. 17.

[43] TURN Opening Brief, p. 16.

[44] CCSF Opening Brief, p.20-21; TURN Opening Brief, p. 19.

[45] PG&E Opening Brief, p. 45.

advisory. If on the other hand, PG&E's shareholders participate in the CPT, the Commission should allow PG&E more flexibility in its customer outreach activities.

4.14. Cost Responsibility Backstop Proposal

PG&E admits that despite its belief that adequate safeguards exist to ensure that the CPT program will not be undercollected "there are always risks with new start up programs such as the CPT."[46] These risks are not completely mitigated by PG&E's agreement that any Commission decision approving the CPT should contain an ordering paragraph preventing PG&E from executing GHG reduction contracts before those contracts were funded by participant premiums.[47] The backstop would still be needed to "address the price risks inherent in the procurement of GHG reductions in a relatively nascent market."[48]

DRA agrees with PG&E that risks remain even if PG&E funds contracts only as revenues are collected from participants, and even if the contracting party is paid every year based on that year's performance. For example, fire is an inherent and acknowledged risk of forestry programs.[49] If in the future a fire destroys a forest and the contractor is unable to perform under the agreement, it is possible that that cost of procuring offsets at that time will exceed available revenues. DRA disagrees with PG&E that nonparticipating ratepayers should be forced to act as a deep pocket in this event, especially if PG&E shareholders do not also lend their support to this "voluntary" program.

4.15 Total Greenhouse Gas Reduction Guarantee Proposal

CCSF proposed a "minimum savings guarantee" that would require PG&E to ensure the acquisition of at least 1.7 million tons of GHG reductions by the the end of the

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[46] PG&E Opening Brief, p. 46.

[47] PG&E Opening Brief, p. 30-31; 4 RT 568:6-26, PG&E/ San Martin.

[48] PG&E Opening Brief, p. 47.

[49] Exhibit 100, DRA Testimony, p. 8. The PIER Final Project Report (2004) "notes that in addition to the costs of physical management of the afforestation activities, the threat of fire is the largest risk to carbon sequestration by afforestation."

demonstration period.[50] PG&E's outraged response claimed that Commission adoption of this relatively modest proposal would be nothing less than "an illegal and arbitrary order by the Commission for PG&E shareholders to purchase greenhouse gas reduction credits for society as a whole."[51] PG&E's hyperbole is mistaken: conditioning approval of PG&E's CPT Application on a minimum performance guarantee serves to protect ratepayers from unforeseen risks and mismanagement, and would allow PG&E shareholders to share in the program benefits as well.[52]

PG&E faulted CCSF for suggesting a minimum performance standard, when CCSF's own climate change initiative does not contain such a standard. The difference between CCSF's program and PG&E proposed CPT is that CCSF is not seeking ratepayer money to buy offsets, but is instead encouraging voluntary action by its citizens to meet its GHG reduction targets.[53]

4.16. Ratemaking Issues

If the Commission approves the CPT without including a shareholder participation component, it should ensure that shareholders do not obtain ratemaking benefits as a result of the CPT.

4.16.1 Overcollected amounts in the Climate Protection Balancing Account should accrue interest at PG&E's authorized cost of capital.

If the Commission approves the CPT without a shareholder participation component, DRA supports Aglet's proposal that the Climate Protection Balancing Account (CPBA) accrue interest at PG&E's authorized cost of capital, in order to ensure that shareholders do not gain the use of ratepayer money at the commercial paper rate.[54]

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[50] CCSF Opening Brief, pp. 25-27; Ex. 504, pp. 8-9.

[51] PG&E Opening Brief, p. 48.

[52] 1 RT 48:8-10, PG&E/Pulling: participants may benefit from "moral satisfaction" that they are taking direct action to address climate change.

[53] 2 RT 241: 11-21, CCSF/Blumenfeld.

[54] Aglet Opening Brief, pp. 7-8.

TURN's similar proposal would treat the amounts collected in the CPBA as an offset to working cash.[55]

4.16.2 Unless shareholders participate in the CPT by sharing costs and risk, administrative and marketing costs should be tracked in a one way balancing account.

DRA agrees that if the Commission does not adopt a minimum performance standard backed by shareholders, CPT funds should be protected in a one-way balancing account to remove the incentive to underspend, especially given the proposed size of the CPT marketing budget. Notwithstanding PG&E's claim that it would "work with the Commission and the EAG" to determine the "best use of the funds," in the "unlikely event" that operating funds remain at the end of the demonstration period,[56] a one-way balancing account would better protect ratepayer interests by removing any possibility that this issue might slip through the cracks at the end of the demonstration project.

4.16.3 The Commission should not allow PG&E to treat GHG reduction contracts as debt equivalent.

DRA agrees that under no circumstances should PG&E be allowed to seek debt equivalence treatment for CPT contracts.

4.16.4 If the Commission requires all customers to pay marketing and administrative costs, then it should allocate such costs on an equal cent per unit of energy.

PG&E proposes allocating marketing and administrative costs across all customers using the "distribution revenues method," arguing that it is based on past practice and is consistent with the cost allocation method used for other public purpose programs. PG&E is correct that some of the mandated public purpose programs are funded as it describes, but the CARE program for low income customers is currently funded on an equal cents per therm basis, as are other non-public purpose programs including DWR bond charges, nuclear decommissioning and the energy cost recovery amount.

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[55] TURN Opening Brief, pp. 22-23.

[56] PG&E Opening Brief, pp. 55-56.

Further, PG&E is incorrect in its assertion that the allocation of the Self-Generation Incentive Program (SGIP) is more aligned with the one proposed by TURN and Aglet.[57] The most recent PG&E Biennial Cost Allocation Proceeding (BCAP) decision adopted PG&E's own recommendation that SGIP cost recovered from gas rates should be allocated to all customer classes on an equal cents per therm basis.[58]

Even if some other programs are funded at different rates, depending on the rate class, there is no logical reason to apportion costs other than on equal cent per unit of energy basis: GHG emissions produced by PG&E facilities are proportional to the number of kilowatt hours or therms, not customers.[59]

5. Cost Responsibility and Program Benefits

5.1. Program Participants

Program participants would benefit from a feeling of mortal satisfaction and the knowledge that they had offset the GHG impact of their energy purchases from PG&E.[60] Under PG&E's proposal, participants would gain this satisfaction while paying nothing for program administrative and marketing costs in their premiums. Instead, all customers, whether or not they choose to participate, with be charged with funding program marketing and administrative costs and with acting as a "backstop" in the event of unexpected surges in the price of GHG reductions or catastrophic events.

PG&E's current characterization of the program as "voluntary" is therefore disingenuous. If PG&E wants to offer a "voluntary" program, it should include administrative and marketing costs in premiums, as do 38 percent of green pricing programs,[61] and very likely all retail offset programs offered by private companies or nonprofit organizations.

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[57] PG&E Opening Brief, pp.54.

[58] D.05-06-029, *slip opinion*, Finding of Fact 13 and Conclusion of Law 5.

[59] 3 RT 473:12-15, PG&E/Luboff.

[60] 1 RT 48:8-10 PG&E/Pulling.

[61] Ex. 5, p. 18.

PG&E contends that increasing the price by including administrative and marketing costs in premiums will hinder enrollment.[62] Possible solutions to that problem include making CPT premiums tax deductible and therefore lowering program costs for residential ratepayers,[63] developing an effective marketing campaign based on realistic and well-reasoned goals, and providing shareholder support as PG&E does for the REACH and solar schools programs.

5.2. Non-participating Ratepayers

Ratepayers who elect not to participate in the "voluntary" CPT should not be forced to subsidize those who do. Nonparticipating ratepayers would not benefit from the CPT any more than other citizens of California (as to cobenefits such as improved biodiversity or watershed habitat) or anyone in the world (GHG reductions). While nonparticipants might gain information through PG&E's marketing campaign, even that prospect is highly speculative given PG&E's insistence on complete control of the marketing campaign and the very real possibility that "promotional efforts could amount to little more than a corporate goodwill campaign."[64]

PG&E argues that there is clear precedent for requiring all ratepayers to participate in public benefit programs.[65] PG&E is correct that ratepayers already contribute to energy efficiency programs, low income programs including CARE, the California Solar Initiative and public interest research programs to list just a few of the public purpose programs funded by ratepayers. There is no pretense that those programs are voluntary, and no reason to add the CPT to the list.

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[62] PG&E Opening Brief, p. 61.

[63] The Hiner study (Ex. 3, Appendix A-1) showed that customers with annual incomes over $75,000 are more likely to participate, and these customers are more likely to itemize their taxes. 2 RT 324: PG&E/Counihan.

[64] TURN Opening Brief, p. 31.

[65] PG&E seeks to lower the required public purpose program contributions for large nonresidential ratepayers in its pending application A.04-06-018.

5.3. PG&E Shareholders

PG&E argues that the Commission "cannot order PG&E to enact a program while specifically requiring shareholders to pay some of the costs of that program."[66] This statement misapprehends the procedural posture of the CPT: PG&E chose to submit its application in response to growing state and local concern about global warming. The Commission did not order PG&E to create the CPT, but it can and should place conditions on its approval consistent with its duty to protect the interests of ratepayers. Conditioning CPT approval on shareholder funding of at least some of the administrative and marketing expenses, a minimum performance guarantee, and responsibility for absorbing some of the long term risk are among the ways to protect ratepayer interests.

PG&E's rhetoric about being "punished" for taking action to address serious problems is at odds with the numerous examples cited in its testimony of actions it has taken as a good corporate citizen. PG&E elected to be a sponsor of World Environment Day,[67] contributes to the California Climate Action Registry,[68] the REACH program and the solar schools initiative.[69] Helping to fund a "voluntary" demonstration program, in order to reduce costs for other program participants, would be a logical extension of this leadership role and would demonstrate a real commitment to address climate change. Such leadership could be had at a cost of "slightly over a penny a share" if PG&E shareholders paid all administrative and marketing costs under the proposed budget.[70]

DRA agrees that the Commission cannot order PG&E to implement the program using shareholder funds, but it can allow PG&E to implement the CPT conditioned on shareholder participation.

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[66] PG&E Opening Brief, p. 67. PG&E argues that any shareholder benefits relating to the CPT are "intangible." Aglet, CCSF, DRA and TURN described the good will and ratemaking benefits that are likely to accrue to PG&E in their opening briefs, and DRA will not repeat them here.

[67] Ex. 1, p.1-4, fn. 14.

[68] 1 RT 69:5 PG&E/Pulling.

[69] 3 RT 454:20-22, PG&E/Luboff.

[70] 2 RT 333:4-8, PG&E/Counihan.

6. Conclusion

The Commission should not approve PG&E's CPT program as structured. There are other entities that provide similar GHG emission programs at lower costs, with a tax deduction, and without ratepayer subsidies. If the Commission approves the CPT tariff, it should modify the program to include tax deductibility for participants and a sharing of the administration and marketing[71] costs between shareholders and participants.

Respectfully submitted,

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July 28, 2006

[71] Exh. 100, p. 1. DRA also suggested that PG&E could reduce overhead costs by making use of existing administrative and advertising budgets.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **REPLY BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES ON PACIFIC GAS AND ELECTRIC COMPANY'S CLIMATE PROTECTION TARIFF** in **A.06-01-012** by using the following service:

[X] **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

[ ] **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on July 28, 2006, at San Francisco, California.

/s/ Angelita F. Marinda
ANGELITA MARINDA

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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CALIFORNIA PUBLIC UTILITIES COMMISSION
SERVICE LISTS - A0601012
(PG&E – Demonstration)

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